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PATENT COOPERATION TREATY

PCT

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference TS 8578 PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/07782	International filing date (day/month/year) 17.07.2003	Priority date (day/month/year) 19.07.2002
International Patent Classification (IPC) or both national classification and IPC C10L1/04		
Applicant SHELL INTERNATIONALE RESEARCH MAATS... et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 18.02.2004	Date of completion of this report 29.09.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Keipert, O Telephone No. +49 89 2399-7375 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/07782**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-10 as originally filed

Claims, Numbers

1-10 as originally filed

Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/07782

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-10
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The following documents are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: EP-A-0 699 872

D2: DE-A-34 34 415

D3: DE-C-32 38 762

D4: WO-A-01 83641

2. Claim 1 is not supported by the description as required by Article 6 PCT, as its scope is broader than justified by the description and drawings, from which it is clear that the invention is related to the use of liquid Fischer-Tropsch fuels only (see page 1 line 23 - page 2 line 26).
3. Dependent claims 2-6 contain erroneous references to previous claims.
4. The present application does not meet the requirements of Article 33(3) PCT, because the subject-matter of claims 1-10 does not involve an inventive step.

Each of the documents D1-D3 (see the passages cited in the search report) discloses the use of heating oil in a condensing boiler. Liquid Fischer-Tropsch fuels are known per se, which is acknowledged by the applicant. Furthermore, it is considered that a Fischer-Tropsch diesel fuel (see document D4, table 3, fuel 2) also has suitability as a heating oil, considering the commonly known similarity of diesel and heating oil. The subject-matter of claim 1 therefore consists merely in a new use of well-known liquid Fischer-Tropsch fuels. This use, however, does not involve more than the employment of properties of this material, which are also already known. Hence no inventive step is present in the subject-matter of claim 1 (Article 33(3) PCT).

5. None of the remaining dependent claims appears to contain any technical feature that is associated with any unexpected technical effect. Consequently, none of these claims supports an inventive step in the sense of Article 33(3) PCT.